



EXHIBIT 4
DATE 02/22/07
HB 767
**American Civil Liberties Union
of Montana**
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February 22, 2007
Testimony HB 767

Chairman Himmelberger and Members of the Committee,

My name is Cathy Day and I am the Policy Director of the ACLU of Montana, a membership based organization of 2,500 Montana households dedicated to defending the Constitution and the Bill of Rights

It is true that the Constitution does not give foreigners the right to enter the United States illegally. But once here, it protects them from discrimination based on race and national origin and from arbitrary treatment by the government. HB 767 seeks to deny non-citizens public assistance in the State of Montana. This seemingly simple piece of proposed legislation has far reaching ramifications for persons who have a right to access this assistance, as well as for the State of Montana.

- The language in the proposed legislation is overly broad and vague. What is the definition of public assistance? Are we speaking about financial benefits, access to public education or emergency services such as assistance from a fire department? The language is broad and clearly open to interpretation. The only definition in the bill for public assistance is "notwithstanding any other law to the contrary".
- The bill is unconstitutional. A state cannot deny public assistance funded by the federal government to qualifying, legal immigrants. State action in this area is thoroughly preempted by federal authority. If one does not like the fact that certain immigrants may receive some kinds of federally funded assistance, their recourse lies with Congress and the United States Supreme Court, not the Montana Legislature.
- The bill creates an opportunity for unjust and discriminatory treatment. Like everybody else, working immigrants - legal and unauthorized - pay taxes; yet they receive only a small percentage of public assistance in Montana. Even if it were constitutional for the state to deny public assistance to immigrants it would be unfair.
- Unfortunately, we believe the bill proposes poor public policy. A state government should not pass legislation that is undeniably unlawful. If enacted, it will be litigated and enjoined from enforcement.

We respectfully ask you to consider the ramifications of this legislation and urge you to vote no on HB 767.